

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TIA WALKER, as Mother and Natural Guardian of
MAHOGANY GREEN,

Plaintiff,

-against-

07 Civ. 3548 (LAK)

THROGS NECK MULTICARE, P.C., et al.,

Defendants.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

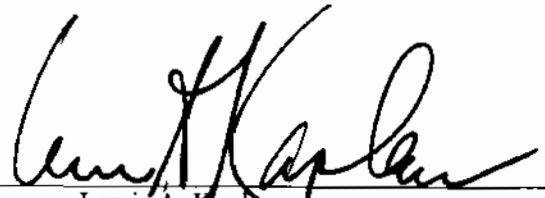
This medical malpractice action against a number of different medical providers and institutions was removed to this Court under 28 U.S.C. § 2679(d)(2) and 42 U.S.C. § 233(c) by defendants Soundview Health Center ("Soundview") and Dawson. Those defendants now move for an order (1) substituting the United States of America as defendant with respect to plaintiff's claims against them and (2) dismissing the complaint as against the United States for lack of subject matter jurisdiction. Plaintiff has not opposed the motion although the time within which to do so has expired.

For the reasons set forth in the government's memorandum, the motion is granted. The action is dismissed with prejudice as against Soundview and Dawson. The United States is substituted in their place as defendant with respect to plaintiff's claims against them. As plaintiff failed to file an administrative claim against the United States as required, the Court lacks subject matter jurisdiction over the plaintiff's claim against the United States. Accordingly, that claim is dismissed for lack of subject matter jurisdiction.

This order fully resolves all claims asserted by plaintiff against Soundview, Dawson and the United States. There is no sound reason why entry of final judgment with respect to those defendants should be delayed. Moreover, as any appeal from this order would involve issues entirely separate from those remaining against the other defendant, an appeal would be appropriate and not wasteful. Accordingly, I find no just reason for delay. The Clerk is directed to enter final judgment of dismissal with respect to plaintiff's claims against Soundview, Dawson and the United States in accordance with this order.

SO ORDERED.

Dated: May 31, 2007



Lewis A. Kaplan
United States District Judge